

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT				1. CONTRACT ID CODE <div style="text-align: center;">J</div>		PAGE OF PAGES <div style="text-align: center;">1 2</div>	
2. AMENDMENT/MODIFICATION NO. 0001		3. EFFECTIVE DATE 28-May-2003		4. REQUISITION/PURCHASE REQ. NO. W26GLG-3091-8270		5. PROJECT NO.(If applicable)	
6. ISSUED BY CODE CONTRACTING OFFICE (CA/CW) US ARMY ENGR DIST NORFOLK ATTN: CENAO-SS-C 803 FRONT STREET NORFOLK VA 23510-1096		7. ADMINISTERED BY (If other than item 6) CODE <div style="text-align: center; font-weight: bold;">See Item 6</div>		DACW65			
8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State and Zip Code)				X		9A. AMENDMENT OF SOLICITATION NO. DACW65-03-B-0010	
				X		9B. DATED (SEE ITEM 11) 30-Apr-2003	
						10A. MOD. OF CONTRACT/ORDER NO.	
						10B. DATED (SEE ITEM 13)	
CODE		FACILITY CODE					
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS							
<input checked="" type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offer <input type="checkbox"/> is extended, <input type="checkbox"/> is not extended. Offer must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.							
12. ACCOUNTING AND APPROPRIATION DATA (If required)							
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.							
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.							
B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(B).							
C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:							
D. OTHER (Specify type of modification and authority)							
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input type="checkbox"/> is required to sign this document and return _____ copies to the issuing office.							
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.) Subject amendment for Maintenance Dredging Horn Harbor, Mathews County, Virginia and Whittings Creek, Middlesex County, Virginia is modified as follows: <div style="text-align: center; padding: 20px;">Refer to Continuation Sheet</div>							
Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.							
15A. NAME AND TITLE OF SIGNER (Type or print)				16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)			
				TEL: _____ EMAIL: _____			
15B. CONTRACTOR/OFFEROR _____ (Signature of person authorized to sign)		15C. DATE SIGNED		16B. UNITED STATES OF AMERICA BY _____ (Signature of Contracting Officer)		16C. DATE SIGNED 28-May-2003	

SECTION SF 30 BLOCK 14 CONTINUATION PAGE

The following items are applicable to this modification:DACW6503B0010 0001

TECHNICAL AMENDMENT SPECIFICATION DATA:

A. SECTION 01005: Page 01005-7, paragraph 1.5.3, after the first sentence insert the following:

“On 21 April 2003, the National Oceanic and Atmospheric Administration, National Ocean Service (NOS) updated the National Tidal Datum Epoch (NTDE) from the 1960-1978 epoch to the 1983-2001 epoch. The Contractor is informed the drawings and specifications for this contract have been prepared to the NTDE (1960-1978) and, accordingly, all work to be performed under this contract shall be accomplished to the NTDE (1960-1978). Conversion of tidal datum and benchmark elevations referenced to tidal datum updated by the NOS shall be the Contractor’s responsibility. When applicable, information regarding conversion factors is available upon request from the Chief, Navigation Support and Survey Section, telephone (757) 441-7125, the project Survey Manager, telephone (757) 441-7666.”

B. SECTION 01355: After the last page of the SECTION, insert the attached Environmental Permit provided with this amendment as Attachment A.



ORIGINAL

COMMONWEALTH of VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY

VWP Permit No. 98-0750
Effective Date: May 10, 1999
Expiration Date: May 10, 2009

VIRGINIA WATER PROTECTION PERMIT

ISSUED PURSUANT TO THE STATE WATER CONTROL LAW

AND SECTION 401 OF THE CLEAN WATER ACT

Based upon an examination of the information submitted by the owner and in compliance with Section 401 the Clean Water Act as amended (33 USC 1251 et seq.) and the State Water Control Law and regulations adopted pursuant thereto, the Department has determined that there is a reasonable assurance that the activity authorized by this permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards.

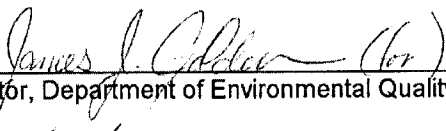
Permittee: Mr. Ronald G. Vann, P.E.
Chief, Waterways and Ports Branch
U.S. Army Corps of Engineers
Norfolk District

Address: 803 Front Street
Norfolk, Virginia 23510

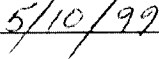
Activity Location: Whitings Creek, at the end of VSH 634 at Locust Hill, Virginia

Activity Description: The applicant proposes to maintenance dredge the Whitings Creek Federal Navigation Project Channel by the hydraulic method. The channel is proposed to be dredged to a depth of -6 feet MLLW (to include a 2 ft. overdepth allowance) and width of 70 ft. Quantities are proposed to be approximately 40,000 cubic yards each event and 80,000 cubic yards over the permit term. The material is to be placed along approximately 3000 ft. of shoreline just east of the project.

The permitted activity shall be in accordance with this cover page, Part I - Special Conditions, and Part II - General Conditions.



Director, Department of Environmental Quality



Date

Authorized Activities

1. This permit authorizes the maintenance dredging of the Whittings Creek Federal Navigation Project Channel by the hydraulic method. The channel is proposed to be dredged to a depth of -6 feet MLLW (to include a 2 ft. overdepth allowance) and width of 70 ft. Quantities are proposed to be approximately 40,000 cubic yards each event and 80,000 cubic yards total over the life of the permit. The material is to be transported by pipe and placed along approximately 3000 ft. of shoreline just east of the project as indicated in the Joint Permit Application dated April 27, 1998, revised on August 20, 1998 and additional information received dated December 24, 1998, February 24, 1999 and March 9, 1999.
2. Any additional impacts to State waters associated with this project will be considered as a single and complete project. Additional impacts may require modification of this permit and may require mitigation.
3. In issuing this permit, the Board has not taken into consideration the stability of any proposed structures.

Site Specific Dredging Conditions

4. Disposal of the dredged materials shall be accomplished in such a manner as to control placement of dredged materials and prevent erosion of the existing shoreline into State waters by using a baffleplate at the end of the pipeline.
5. Hydraulic pumping to the disposal area shall be performed in such a manner as to prevent leakage or discharge into State waters.
6. In the event of a ruptured pipe, dredging and disposal operations shall immediately cease. Operations shall not resume until repairs are complete, and conditions specified in No. 11, below, are met.
7. Best optimal dredging techniques to reduce turbidity shall be followed.
8. No vegetated wetlands shall be impacted directly by this project.
9. The double handling of dredged material in State waters shall not be permitted.
10. The berms where the dredged material is placed shall be adequately maintained until such a time as the dredge spoils are dewatered and stabilized.
11. Water quality standards for pH, dissolved oxygen and temperature shall not be violated during dredging operations. These standards, from 9 VAC 25-260 et seq., for Class II waters are as follows: pH (6.0 - 9.0 Standard Units); dissolved oxygen, 4.0 mg/l (minimum) and 5.0 (daily average); and a rise above ambient temperature of no more than 3 degrees C from an appropriate upstream sampling point. Should standards be violated, or evidence of impaired water quality, such as fish kills, is observed during dredging, dredging operations shall halt and the DEQ's Kilmarnock Office notified immediately.

Monitoring

12. Dated photographs shall be taken during dredging operations clearly depicting the dredging equipment, baffleplate and berms.
13. Dated photographs of the disposal site shall be taken after completion of the dredging operations and as soon as the dredge spoil material has stabilized.
14. The Corps of Engineers' Inspection Group Summary of Daily Operations shall be submitted weekly for each week of operation.
15. After each dredging cycle, the total amount of dredged material shall be recorded, and a post dredging hydrographic survey conducted with the results provided to DEQ within thirty (30) days of the completion of the dredging.

Reporting

16. The DEQ-KO VWPP staff shall be notified in writing, with certified letter, 10 days prior to starting work authorized under this permit so that staff inspections of the project can be planned as needed.
17. Photographs detailed in Special Conditions No. 12 and 13, above, shall be submitted to DEQ-KO within 30 days of being taken.
18. The Corps of Engineers' Inspection Group Summary of Daily Operations Reports shall be submitted to the VWPP-KO staff every week during dredge or discharge operations. All reports shall be submitted to: DEQ - Kilmarnock Office P.O. Box 669, Kilmarnock, Virginia 22482.
19. The DEQ's VWPP-KO staff shall be notified in writing within 10 days following completion of each dredging cycle. A post dredge survey shall be conducted within 60 days of the completion of each dredge cycle and a certified copy shall be sent to the DEQ - Kilmarnock Office within 30 days of the completion of the certified copy. Please include your permit number 98-0750 on all correspondence with our office.
20. Violations of State Water Quality Standards shall be reported within 24 hours to the Department of Environmental Quality-Kilmarnock Office (804/435-3181). After normal business hours, call the DEQ - Piedmont Office at 804-527-5020.
21. Measures shall be employed to prevent spills of fuels or lubricants into State waters. The permittee shall notify the DEQ-KO at (804) 435-3181 or by facsimile transmission at (804) 435-0485 if spills occur.
22. When unusual or potentially threatening conditions are encountered which require debris removal or involve potentially toxic substances the DEQ-KO VWPP staff shall be notified in writing. Measures to remove the obstruction, material, or toxic substances or change the location of any structure is prohibited until approval by the Department is received.

23. This permit is valid for a maximum of **10 years** from the date of issuance. Reissuance of the permit may be necessary if any portion of the authorized activities or permit (including mitigation) has not been completed. As per the Virginia Water Protection Permit Regulation (9 VAC 25-210 et seq.) reapplication must be made no less than 180 days prior to the expiration date of this permit.

Conditions Applicable to all Permits

24. All dredged materials shall be clean and free of contaminants in toxic concentrations or amounts.
25. All work shall be done in such a manner as to minimize sedimentation/siltation of State waters and wetlands.
26. The pouring of wet or uncured concrete directly into State waters shall be strictly prohibited.
27. All construction and demolition associated with this project shall be accomplished in such a manner that construction and/or waste material does not enter State waters.
28. Construction activities shall not disrupt the movement of aquatic life.

Certification Requirements

Any person signing a reporting document shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

PART II - GENERAL CONDITIONS

A. Duty to Comply

The permittee shall comply with all conditions of the permit. Nothing in these regulations shall be construed to relieve the permittee of the duty to comply with all applicable Federal and State statutes, regulations and toxic standards and prohibitions. Any permit non-compliance is a violation of the Clean Water Act and State Water Control Law, and is grounds for enforcement action, permit termination, revocation, modification, or denial of a permit renewal application.

B. Mitigation Requirements

1. The permittee shall take all reasonable steps to
 - a) avoid all adverse environmental impact which could result from the activity,
 - b) where avoidance is impractical, minimize the adverse environmental impact, and
 - c) where impacts cannot be avoided, provide mitigation of the adverse impact on an in kind basis.

C. Reopener

This permit may be reopened to modify the conditions of the permit to meet new regulatory standards duly adopted by the Board. Causes for reopening permits include, but are not limited to:

1. When State law prohibits conditions in a permit which are more stringent than an applicable effluent limitation guideline;
2. When subsequently promulgated effluent guidelines are modified, and are based on best conventional pollutant control technology; or
3. When the circumstances on which the previous permit was based have materially and substantially changed or special studies conducted by the Department or permittee show material and substantial change since the time the permit was issued and thereby constitute cause for permit modification or revocation and reissuance.

D. Change in Management of Pollutants

All discharges and other activities authorized by this permit shall be made in accordance with the terms and conditions of this permit. The permittee shall submit a new application 180 days prior to any modification to their activity which will:

1. Result in a significantly new or substantially increased discharge of dredged or fill material, or a significant change in the nature of the pollutants; or
2. Violate or lead to the violation of the terms and conditions of the permit or the water Quality Standards of the Commonwealth.

E. Duty to Halt or to Reduce Activity

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

F. Compliance with State and Federal Law

Compliance with this permit constitutes compliance with Virginia Water Protection Permit requirements of the State Water Control Law. Nothing in this permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties established pursuant to any other State law or regulation or under the authority preserved by Section 510 of the Clean Water Act.

G. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal property rights, nor any infringement of federal, state or local laws or regulations.

H. Severability

The provisions of this permit are severable.

I. Right of Entry

The permittee shall allow authorized State and Federal representatives, upon the presentation of credentials at reasonable times and under reasonable circumstances:

1. To enter the permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the permit conditions;
2. To inspect any facilities, operations, or practices (including monitoring equipment) regulated or required under the permit;
3. To sample or monitor any substance, parameter or activity for the purpose of assuring compliance with the conditions of the permit or as otherwise authorized by law.

For the purpose of this section, the time for inspection shall be deemed reasonable during regular business hours. Nothing contained herein shall make an inspection time unreasonable during an emergency.

J. Transferability of Permits

This permit may be transferred to another person by a permittee if:

1. The current permittee notifies the Department of Environmental Quality 30 days prior to the proposed transfer of the title to the facility or property;
2. The notice of the proposed transfer includes a written agreement between the existing and proposed new owner containing a specific date of transfer of the permit responsibility, coverage and liability between them; and
3. The Department of Environmental Quality does not within the 30 day time period notify the existing owner of its intent to modify or revoke and reissue the permit.

Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.

K. Permit Modification

The applicant shall notify the Department of Environmental Quality of any modification of this project and shall demonstrate in a written statement to the Department that said modification will not violate any conditions of this permit. If such demonstration cannot be made, the permittee shall apply for a modification of this permit. This permit may be modified when any of the following developments occur:

1. When additions or alterations have been made to the affected facility or activity which require the application of permit conditions that differ from those of the existing permit or are absent from it;
2. When new information becomes available about the operation or discharge covered by the permit which was not available at permit issuance and would have justified the application of different permit conditions at the time of permit issuance;
3. When a change is made in the promulgated standards or regulations on which the permit was based;
4. When it becomes necessary to change final dates in schedules due to circumstances over which the permittee has little or no control such as acts of God, materials shortages, etc. However, in no case may a compliance schedule be modified to extend beyond any applicable statutory deadline of the Clean Water Act;
5. When an effluent standard or prohibition for toxic pollutant must be incorporated in the permit in accordance with provisions of Section 307(a) of the Clean Water Act;
6. When changes occur which are subject to "reopener clauses" in the permit.
7. When the Department of Environmental Quality determines that minimum instream flow levels resulting from the permittee's withdrawal of water are detrimental to the instream beneficial use, the withdrawal of water should be subject to further net limitations or when an area is declared a Surface Water Management Area pursuant to State Water Control Law Sections 62.1-242 through 253, during the term of the permit;
8. When the level of discharge of a pollutant not limited in the permit exceeds the level which can be achieved by available methodology for controlling such discharges;
9. When the permittee begins or expects to begin to cause the discharge of any toxic pollutant not reported in the application; or
10. When other states were not notified of the change in the permit and their waters may be affected by the discharge.

L. Permit Termination

This permit, after public notice and opportunity for a hearing, is subject to termination. Causes for termination are as follows:

1. Noncompliance by the permittee with any condition of the permit;
2. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;

3. The permittee's violation of a special or judicial order;
4. A determination that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by permit modification or termination; or
5. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge of dredged and fill material controlled by the permit.

M. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

N. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act or Sections 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

O. Unauthorized Discharge of Pollutants

Except in compliance with this permit, it shall be unlawful for the permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances, or,
2. Otherwise alter the physical, chemical, or biological properties of such state surface waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.